IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) JAMES D. BUCHANAN, Plaintiff, vs. (1) TURN KEY HEALTH CLINICS, LLC, (2) ROB FRAZIER, in his official capacity as Muskogee County Sheriff, (3) BOARD OF COUNTY COMMISSIONERS OF MUSKOGEE COUNTY, (4) DR. COOPER, and (5) KATIE MCCULLAR, LPN, Defendants.	)	Case No.: 18-CV-171-RAW

EXHIBITS IN SUPPORT OF DEFENDANT, WILLIAM COOPER, D.O.'S MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS AND BRIEF IN SUPPORT

Exhibit 10 Baird Deposition

Q. Okay. And, similarly, he went to the ER at EASTAR on September 16, 2016, following his bicycle accident.

Have you ever or do you remember reviewing the medical records from that visit?

MR. SMOLEN: Object to the form. It's outside the scope of his report and outside the scope of his note.

MR. MILLER: You can answer the question. He may object to the form from time to time.

THE WITNESS: I understand.

A. I don't recall reviewing that record.

Q. (BY MR. YOUNG) Okay. And then would it be fair to assume that you never reviewed or you don't recall reviewing the medical records that document James Buchanan's trip in the Muskogee County EMS when he was transferred from EASTAR to St. John's Medical Center?

MR. SMOLEN: Object to the form.

A. I have no recollection of that direct review of that record.

Q. (BY MR. YOUNG) I mean, is it part of your practice, typically, to request and review records from weeks and months prior to the care that you're giving?

A. In rare circumstance, would I -- I request those records if it's pertinent to the clinical care.

Exhibit 10

medical or surgical management of that patient"; is that right?

A. Correct.

Q. Doctor, I don't want to you to go outside the scope of your expertise, and the way that you answer this next question could speed up the amount of time that we're going to be here.

Given the fact that you -- first of all, let me back up.

Have you ever worked in a jail?

A. No.

Q. Have you ever worked in a prison?

A. No.

Q. You ever do any kind of rotations in residency?

A. Yeah, actually, I've been in a jail in residency.

Q. How long ago was that?

A. 13, 15 years.

Q. But you've never been employed or contracted as a physician --

A. No. I was just -- we were just -- I can't remember. It was like -- almost like an educational piece to -- to workplace safety in the jail.

Q. All right. So given the fact that you've never been employed in a correctional setting as a

Q. I'm sorry. Can you explain that to me a little bit more?

A. So just to say it again, the standard of care -- cervical epidural abscess is all about timing. A patient can go from literally -- it's -- it's widely variable, but a patient can go paralyzed over the course of -- I wouldn't say minutes -- but hours to a day or two from normal -- what appears to be normal on the external surface to complete quadriplegia over the course of -- of -- what happens, they get a cervical epidural abscess, and it can function by two different mechanisms. The first mechanism is more surgically addressable, and that's compression, inflammation from the cervical spinal cord. And the second mechanism is venous infarction, so all that inflammation from the infection clogs up the Batson's vertebral plexus, which is like the venous drainage --

THE REPORTER: Could I get you to slow down for me?

THE WITNESS: Sorry. I'm getting all too --

THE REPORTER: That's okay.

MR. SMOLEN: Hey, we all talk fast when we get excited.

THE WITNESS: Where should I back up to?

A Nothing particular, just my regular visits with him, talking to him about it.

Q Do you know -- and that's what I'm asking about is the regular visits with him, when you would have spoken with him, what you remember from any of those interactions?

A Nothing like in particular, he was concerned about whether he was going to walk again or move again, what was wrong with him, if he was going to get better, and, you know, that's a hard conversation to have, there's not really a good prediction on that, so -- but I don't recall specific details of that --

Q Okay.

A -- conversation.

Q Do you remember whether or not the prognosis for his ability to regain function was optimistic or could you put a percentage on it?

A I can't remember how I relayed it to him, I probably relayed it to him relatively pessimistically based on what I would have thought I would have done based on his surgical findings.

Q Okay.

A And his initial presentation. So how he presented clinically initially and his surgical

expert witness here, but to give some expert type off-the-side testimony is a cervical epidural abscess diagnosis is a very difficult to make diagnosis, elusive and can -- this is the problem you land yourself in, because the diagnosis is difficult, people present initially with potentially no to minor symptoms that escalate potentially rapidly to profound symptoms.

Q Thank you for that. It's my understanding as well, that that can be the case with this type of injury.

A So I'm on Page 23, 1023 of the St. John's record.

Q Yeah. Let's pull off from that, let's go to Page 1020, please.

MR. SMOLEN: Where you at now?

MR. YOUNG: St. John Medical Center 1020.

THE WITNESS: So this looks like intake from the nursing.

Q (By Mr. Young) And specifically, I want to call your attention to the bottom left-hand corner, the pain assessment.

A Uh-huh.

Q Looks like he's got a numeric pain score of nine?

epidural abscess?

A Yes, among -- yes.

Q You haven't reviewed any of the records for St. John's to see if they were fighting an infection or anything of that nature when he was in the hospital, have you?

A I reviewed enough of it to know that by my recollection, that he -- there was no infection identified prior to an MRI. The first imaging I'm aware of is an MRI at Hillcrest Medical Center.

Q From the bicycle accident?

A The first imaging of his cervical spine with regard to the whole clinical care that I'm aware of was at Hillcrest Medical Center at the time of admission.

Q Have you reviewed any medical records from St. John's showing that they were fighting infection, that he had a series of temperatures and high white cell count?

A But they're -- I don't recall, no, I don't recall that specifically, I don't recall reviewing anything that led anyone to believe that he had a neck infection.

Q At St. John's; right?

A At St. John's.

Q (By Mr. Artus) Is MRI?

A Is MRI. He could also do some other studies, but that's the main one.

Q You said earlier in your deposition testimony, this is a hard thing to diagnose, a cervical epidural abscess; is that correct?

A No.

MR. SMOLEN: Objection to the form.

THE WITNESS: It's not a hard thing to diagnose when you have the proper study, when you see it in MRI, it is a delayed diagnosis most often because someone comes in, you don't know what's going on, they're complaining of neck pain, that's new, so you do what you do with most people who have neck pain, give them some steroids, some muscle relaxers, some painkillers and you tell them it's going to get better in a few weeks. Then it doesn't and then they come back with more. It's -- the hard diagnosis is -- if I said that, it was a misstatement, it's a often delayed diagnosis.

Q (By Mr. Artus) And it's not very common, is it?

MR. SMOLEN: Object to the form.

THE WITNESS: I'd actually have to look at the literature to give you numbers on commonalty,

but in general, in the neurosurgery practice, it is not overly uncommon.

Q (By Mr. Artus) Not common?

A Yeah.

Q I think we were talking in your practice --

A It's more common than, for example, an ER physician practice.

Q Right.

A Or a family practice. But it's still uncommon.

Q Now, with regard to your understanding of -- you don't have any direct knowledge as to when Mr. Buchanan lost function in his left arm and then his right arm or his legs; is that correct?

MR. SMOLEN: Object to the form. You mean beyond what you told him -- and when you say direct knowledge, I guess I just -- would you clarify what you mean by that? I'll stipulate that he wasn't in the jail.

MR. ARTUS: Why do you make me make these things? Yeah, I don't know what I was saying.

THE WITNESS: I don't have any direct knowledge.

Q (By Mr. Artus) It's kind of obvious.

fine --

Q Right.

A -- is probably the first response, and that's a cavalier response. Because you wouldn't say that to a patient sitting here in the office, you would say, oh, what's been bothering you, how long has it been bothering you, show me how you're moving, you would do those things. But in the jail, it's a different environment and the first response probably is somewhat cavalier, and it's not a medical -- it's not -- when a prisoner complains of pain, the nurse doesn't run and get the doctor and say come and see him and evaluate him and take an MRI and all those things. Again, that's overstepping my bounds, well outside the scope of my expertise and I can't make any comments on what really happens in a jail because I've never been in a jail.

Q So you really can't make any comment as to whether or not anybody in the jail fell below any standard of treatment?

MR. SMOLEN: Objection to the form.

THE WITNESS: I can make comments to the patient -- no, that's not true.

Q (By Mr. Artus) Okay.